

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. S1-4:18 CR 975 ERW
	)	
	)	
CHRISTOPHER MYERS,	)	
	)	
Defendant.	)	

**GOVERNMENT’S MOTION TO SET STATUS CONFERENCE, MOTION TO  
CONTINUE TRIAL DATE UNTIL AFTER SEPTEMBER 1, 2021, AND MOTION FOR  
SPEEDY TRIAL FINDINGS RELATED TO COVID-19 NATIONAL EMERGENCY**

COMES NOW, the United States of America, by and through Sayler A. Fleming, United States Attorney for the Eastern District of Missouri, and Carrie Costantin and Robert F. Livergood, Assistant United States Attorneys for said District, and files its Motion to Set Status Conference, its Motion to Continue Trial Date until after September 1, 2021, and its Motion for Speedy Trial Findings Related to COVID-19 National Emergency.

I. Motion to Set Status Conference

On June 17, 2021, after a trial, the jury was unable to reach a verdict as to the defendant Christopher Myers on the charge of destruction of evidence in a federal investigation. The Court declared a mistrial as to defendant Myers. The parties have been unable to reach an agreement concerning the disposition of charges against defendant Myers. The Government moves this Court to set a Status Conference on the remaining charge to determine a new trial date.

II. Speedy Trial Statute

Title 18, United States Code, Section 3161(e) states that “if a defendant is to be tried again following a declaration by the trial judge of a mistrial...the trial shall commence within seventy

days from the date the action occasioning the retrial becomes final.” The Government requests that the Court exclude from Speedy Trial calculations: 1) the days necessary to prepare a transcript of the second trial; and 2) the days from the mistrial to September 2, 2021 due to the District Court’s order concerning COVID-19 National Emergency and trials.

A. Motion to Continue Trial Date After September 1, 2021

The transcript of the second trial was ordered on August 5, 2021. The transcript is currently being prepared by the court reporter and is expected to be completed by September 1, 2021. The transcript is necessary for the preparation of the third trial. A transcript of the first trial has already been prepared. The Government moves the Court to set a trial date after September 1, 2021 to permit the parties to properly prepare for trial. In addition, the Government moves the Court to exclude the time for the preparation of the transcript from any Speedy Trial Act calculations.

B. Motion for Speedy Trial Findings Related to COVID-19 National Emergency

Chief Judge Rodney W. Sippel issued an order on June 4, 2021 that states:

The Court finds that health concerns related to COVID-19 continue to require that gatherings of people be limited, and that the use of appropriate health screening, social distancing, and personal protective equipment must be continued. Thus, only a limited number of jurors can be called at once, so that the Court can take appropriate measures to ensure a fair cross-section of the community is summoned under the present circumstances. If the Court did not limit the number of jurors and jury trials commencing at any one time, then the Court would not be able to implement the public health measures necessary in order to proceed with jury trials, which would negatively impact the fair administration of justice and the rights of defendants. These interests and concerns, coupled with the need to protect the health and safety of defendants, their counsel, prosecutors, court staff, and the public by limiting the number of in-person hearings, and due to the inability of the Court to ensure that a fair cross-section of jurors would be available for a large number of jury trials during the specified time, outweigh the interests of each defendant’s right to and the public’s interest in a speedy trial. *Accordingly, pursuant to 18 U.S.C. § 3161(h)(7)(A), the time period of continuances through September 2, 2021 shall be excluded when computing the time within which trial must commence.*

*(Emphasis added).*

Because of the scheduling delays due to COVID-19, and to the extent not covered by the COVID-19 standing order, the Government formally moves the Court to make findings excluding the time period from the mistrial until September 2, 2021 in computing the time within which trial must be commenced because of the Chief Judge's order of June 4, 2021.

III. Conclusion

The Government moves the Court to set a status conference to determine a new trial date. In addition, the Government moves the Court to continue any trial setting until after September 1, 2021, when the transcript is expected to be completed, and to exclude the time needed to prepare the transcript from any Speedy Trial calculations. Finally, the Government respectfully moves the Court to make findings excluding the time period from the mistrial to September 2, 2021 from Speedy Trial calculations because of the COVID-19 crisis, as outlined by Chief District Judge Sippel's June 4, 2021 order.

Respectfully submitted,

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United States Attorney

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 18, 2021, the foregoing was filed electronically with the Clerk of the Court to be served electronically on all parties of record.

/s/ Carrie Costantin  
CARRIE COSTANTIN #35925 MO  
Assistant United States Attorney